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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,964	12/01/2003	Lee J. Brown	1613	3037

20676 7590 03/28/2005

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EXAMINER

GREEN, CHRISTY MARIE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/724,964

Applicant(s)

BROWN, LEE J.

Examiner

Christy M Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/17/05</u> | 6) <input checked="" type="checkbox"/> Other: <u>Attached figures (1)</u> |

DETAILED ACTION

This is a first office action for serial number 10/724964, entitled End Cap for Rain Gutters, filed on December 1, 2003.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the support bracket of claim 1 and 12; the first connection means, outer and inner peripheral wall and a connection slot in claim 2; a gap of claim 7; and a first gutter-trough closure region and a second above-trough closure region of claim 14 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: within claim 1, it is unclear as to what exactly the first and second connection means are supposed to be, as well as the support bracket. Since the applicant has not disclosed within the drawings nor within the disclosure what these limitations are, or how they are applied to the invention, it is hard for the examiner to understand exactly what they are. Until further clarification on these limitations, the examiner will interpret the claims as best understood.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Carreiro, US patent # 4,190,988.

Carreiro discloses the claimed invention a rain gutter end cap (24, 26) comprising a) an end panel (60) having an inner surface (58) and an outer surface (attached figure 1) and including a perimeter having a predetermined shape (figure 1); b) first connection means (attached figure 1) carried by the end panel; and c) second connection means

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(52) carried by the end panel; the first connection means (attached figure 1) includes an outer peripheral wall (attached figure 1 and at 60) extending laterally outwardly from the inner face (58) of the end panel and an inner peripheral wall (at 52) extending laterally outwardly from the inner face (58) of the end panel and positioned inwardly of the outer peripheral wall to define therebetween a connection slot (54); the outer peripheral wall defines an end cap top wall (where 60 points to), an end cap rear wall (attached figure 1), an end cap bottom wall (attached figure 1), and an end cap front wall (attached figure 1); the outer peripheral wall is substantially continuous (figure 1); the outer peripheral wall (attached figure 1) and the inner peripheral wall (at 52) are substantially perpendicular to the end panel inner surface (58); the outer peripheral wall includes a gap (attached figure 1) between the end cap top wall (at 60) and the end cap rear wall (attached figure 1); the inner peripheral wall (at 52) extends substantially along and parallel to the end cap front wall (attached figure 1), the end cap bottom wall, and the end cap rear wall (where 24 points to); wherein the inner peripheral wall (at 52) extends along the end cap rear wall (where 24 points to) from a point between the end cap top wall (at 60) and the end cap bottom wall (attached figure 1), along the end cap bottom wall, and along the end cap front wall to a point between the end cap top wall (at 60) and the end cap bottom wall (attached figure 1); the second connection means (52) includes at least one aperture (54) in the end panel; the second connection means (52) includes a projection (56) extending outwardly from the end panel inner surface (58).

Claims 1 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Allen, US patent # 4,407,097.

Allen disclose the claimed invention a rain gutter end cap (22) comprising a) an end panel having an inner surface (26-figure 3) and an outer surface (26-figure 3) and including a perimeter having a predetermined shape (where 22 points to - figure 1); b) first connection means (34) carried by the end panel; and c) second connection means (29) carried by the end panel; the second connection means (29) includes a projection (36) extending outwardly from the end panel inner surface (26 – figure 3); the projection (36) includes a passageway (at 37); the projection 936) terminates in a connector (38) engagable with a support bracket (32 by 26).

Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Schweinberg et al., US patent # 6,027,283.

Schweinberg discloses the claimed invention a rain gutter end cap (26) comprising a first gutte-trough closure region (54), and a second, above-trough closure region (24).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carreiro.

Carreiro discloses the claimed invention as stated above in claim 1, except for the inner peripheral wall extends from the inner surface a greater distance than the outer peripheral wall. It would have been an obvious matter of design choice to provide

one wall to extend a greater distance than another wall, since applicant has not disclosed that the size of the two walls solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the shape and size of the inner and outer peripheral walls within the reference cited. Also, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christy M Green whose telephone number is 703-308-9693. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Cg

March 17, 2005



Cari D. Friedman
Supervisory Patent Examiner
Group 3600

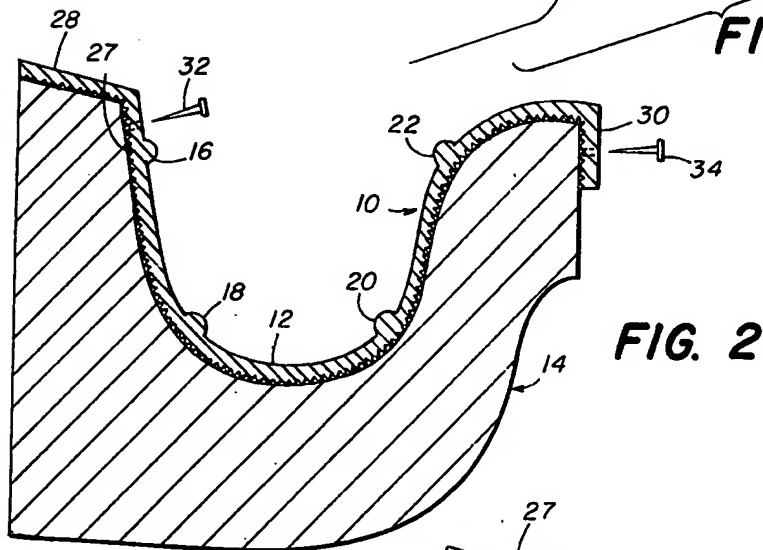
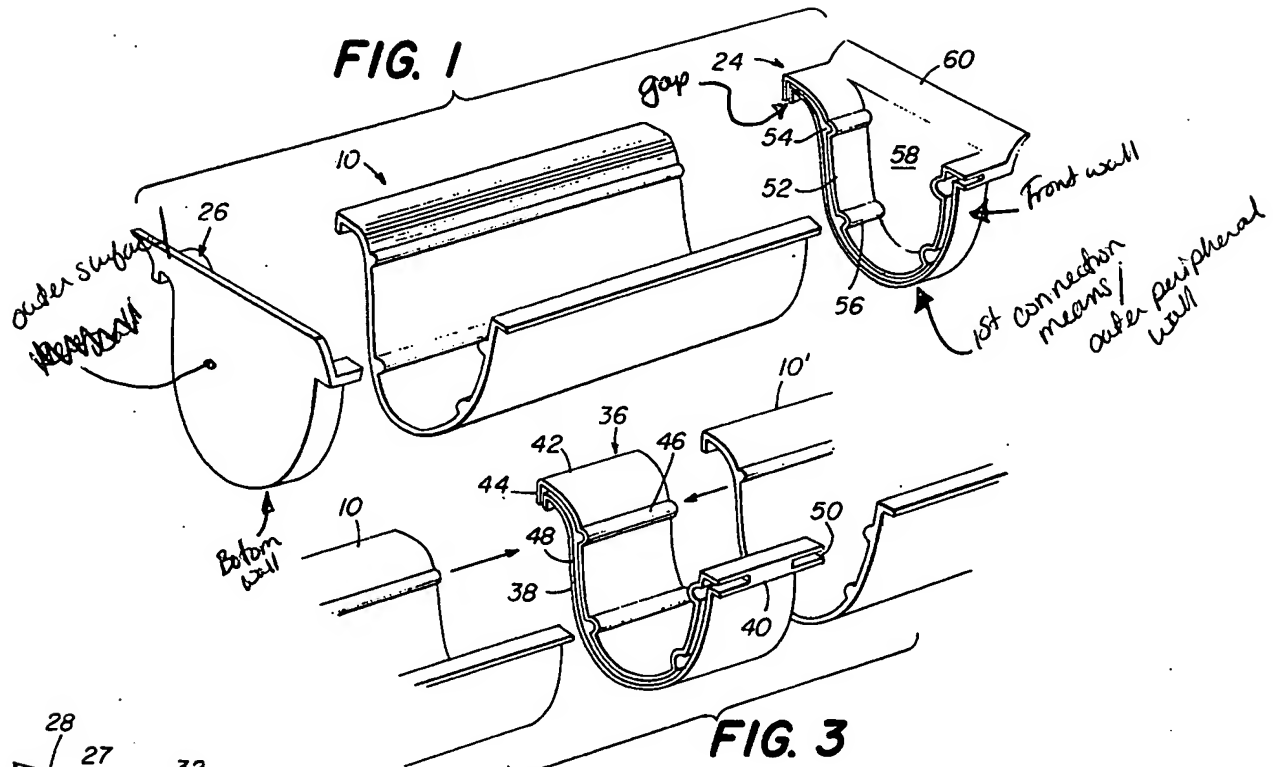


FIG. 5

